



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Caveglia, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bennett, Bogue, Fish, Halliday , Sacks, Williams, Zermeño
CHAIRPERSON Caveglia
Absent: COMMISSIONER None

Staff Members Present: Anderly , Conneely , Garcia, Looney , McClellan

General Public Present: Approximately 30

PUBLIC COMMENT

There were no public comments.

AGENDA

1. **Appeal of Denial of Administrative Variance No. 00-180-12 – Jack Hagg (Appellant) Jack and Antonia Hagg {Owners}:** Appeal of the Planning Director's Action Denying a Variance Application to Retain a Storage Shed 3 feet from a Side Street Yard Property Line Where a Minimum 10-foot Setback is Required - The Property is Located at 3692 Roxbury Lane, at the Northwest Corner of Roxbury Lane and Pelham Place (Hayward Highlands Neighborhood/Woodland Estates area) in the Single-Family Residential – Minimum 10,000 Square Foot Lots (RS-BIO) District
2. **Administrative Use Permit No. 00-150-28 – Whalen & Company [Bonnie Medina-Jawad] for Metricom (Applicant), PG&E (Owner):** Request to Attach a Telecommunication Antenna Facility to a PG&E Transmission Tower - The Property is Located at 1620 Highland Boulevard, Northerly Side at the Point Just Before the Street Closure and Barricade Structure Accessed from Mission Boulevard in an A (Agricultural) District

PUBLIC HEARINGS

1. **Appeal of Denial of Administrative Variance No. 00-180-12 – Jack Hagg (Appellant) Jack and Antonia Hagg {Owners}:** Appeal of the Planning Director's Action Denying a Variance Application to Retain a Storage Shed 3 feet from a Side Street Yard Property Line

DRAFT

Where a Minimum 10-foot Setback is Required - The Property is Located at 3692 Roxbury Lane, at the Northwest Corner of Roxbury Lane and Pelham Place (Hayward Highlands Neighborhood/Woodland Estates area) in the Single-Family Residential - Minimum 10,000 Square Foot Lots (RS-B10) District

Planning Manager Anderly described the property and the application. She noted that the property owner was appealing a denial by the Planning Director. She added that the Commission would have to find special circumstances, among other things, in order to reverse the denial,

Commissioner Williams commented that no other owners in the area have asked for a similar variance. He then asked what it would take to be acceptable.

Planning Manager Anderly explained that the shed would have to be considerably smaller than this one, and still at least 10-feet from the property line.

Chairperson Caveglia opened the public bearing at 7:39 p.m.

Jack Hagg, 3692 Roxbury Lane, said he had been given some bad advice.

Noel Pinto, 28974 Halifax Place, member of the Board of Directors of the Woodland Estates Homes Association, said there is another shed in the neighborhood also within the 10-foot setback. It is a greenhouse on the corner of Cromwell. He added that the Board met and decided to recommend that this variance be approved since it is not detrimental to the neighborhood.

Commissioner Bogue asked whether it would be acceptable to have structures like this throughout the Woodland Estates area.

Mr. Pinto said there should not be a problem with that.

Commissioner Bogue then asked about the topography.

Mr. Pinto said the Board had looked at this and determined that it is not built on a soil erosion zone.

Commissioner Sacks asked why the Board would go along with this since the applicant never went to anyone for permission before building.

Mr. Pinto said, apparently the applicant did not have the proper advice. He added that the Board met, looked the property over and since they had previously agreed to the greenhouse, they agreed to approve this building. He indicated that all of the homes have fences around



them, whether they are required or not.

Dean Colarchik, 3691 Roxbury Lane, who lives directly across the street from the applicant, said he had no objection to the shed since it was very well constructed.

Bob Perry, 26876 Pelham Place, neighbor and a construction supervisor, commented that there have been five major slides in the area due to homeowner error. He explained the types of slopes and that the integrity of this slope has been impeded. He then asked who would be liable for **any** damage that may occur. He added that utility access and easements are required. He then indicated that everyone in the neighborhood has a copy of the Association CCR's, which this structure clearly violates. He then responded to further Commissioner questions and explained the seriousness of the engineered slopes.

Celeste Perry, 26876 Pelham Place, added her comments relative to the CCR's for the Association. She indicated that building a shed would not normally be a problem for a level lot but that this lot has a slope into which the shed was built. She added that the appearance of the structure is not the concern.

Marilyn Jumper, 3676 Roxbury Lane, another neighbor, said she lives at the lowest point in the development and recently incurred water problems under her house. She never has had standing water problems before, even with the massive rainstorms experienced in the area.

Gabriel Crotti, 3699 Roxbury Lane, who lives across the street from the applicant, said this site is not Oakes Drive as far as the slope. He asked whether this is really a crucial issue.

John Ostarello, N/A, said he drove by to see the shed and it is not really visible. It is fairly substantial and seems to have adequate drainage. He added that the slopes and slides were all on Oakes Drive. He indicated that even the experts do not seem to have the answers. Even the people **who** write the CC&R's do not know what the City requires. In this case, the Board realized that **it** was done so they approved it.

Merrill Brown, 27044 Halifax Place, said he built the first house in the area. Mr. Hagg asked him about materials for the project. He thought the permit was through the Association. He said he had the inspectors review the project, plans and expense.

Chairperson Caveglia closed the public hearing at 8:17 p.m., and then commented that allowing this appeal would be granting a special privilege.

Commissioner Fish **moved**, seconded by Commissioner Halliday, to deny the appeal and variance and to uphold the Planning Directors decision. He added that it is important to keep

setbacks consistent in a neighborhood.

Commissioner Halliday said this was a very tough decision, which was not done lightly. She noted that she is hoping that during the General Plan process, the City Council and Commission members will be able to develop guidelines for older neighborhoods. In this instance, she said, she did not want to set a precedent. Common sense says you have to get permits for a structure this size, especially when you cut into a slope.

Commissioner Zermefio wondered who would be liable if there were a slide and damage and it was found the shed was at fault.

Assistant City Attorney Conneely said liability would be addressed in an executive session.

Commissioner Zermefio then suggested that the reason Homeowners Associations have CC&R's, is for consistency in the neighborhood.

Planning Manager Anderly added that generally, to be able to construct a building of this size and complexity, one would know a building permit is required.

Chairperson Caveglia said you have to assume people who know how to build something this size would also know to ask.

Commissioner Zermefio stressed that liability is an issue with this structure and its location.

Commissioner Williams said he was initially undecided about the issue but if the Commission supported the variance, the owner would still have to get a soils test. He expressed concern about cutting into the slope, and noted the reason this issue was brought to the attention of the City was as a result of a complaint. He added that we must abide by our ordinances. He would support the motion.

Commissioner Sacks said it was unfortunate that it got this far without the right parties being involved. She indicated support for the motion and quoted section d. of the Findings for Denial saying that this would constitute a special privilege to the applicant.

Commissioner Bogue said he, too, would support the motion. He said cutting into the slope is in violation of both the Homeowner's CC&R's as well as the City's Zoning Ordinances. I-Ie expressed concern that the building sits in the slope.

The motion for denial of the variance passed unanimously.

2. Administrative Use Permit No. 00-150-28 – Whalen & Company [Bonnie Medina-Jawad] for Metricom (Applicant), PG&E (Owner): Request to Attach a



Telecommunication Antenna Facility to a PG&E Transmission Tower - The Property is Located at 1620 Highland Boulevard, Northerly Side at the Point Just Before the Street Closure and Barricade Structure Accessed from Mission Boulevard in an A (Agricultural) District

Senior Planner McClellan corrected the location of the property as noted in the report and described the proposal. He explained the recently adopted Telecommunications Ordinance. He said quite often a business would co-locate with a competitor. Metricom is a new player in the field. This application is more for wireless and networking. He showed photos of the existing transmission tower on the property as well as how the addition of the antenna would look. He agreed that these are not attractive structures but added that between the federal government regulations and local jurisdictions, the City may **only** review the visual effect and placement of the antennas. He indicated that there were no neighbors in attendance at a public neighborhood meeting on this project, although a neighbor had emailed the City to express concern regarding the health issues associated with the telecommunications device and the general appearance.

Commissioner Williams asked about studies pertaining to health issues and was told the Federal Government has studies that have determined there is no evidence these waves are harmful. He added that the carrier can provide further reports and information to neighbors if they ask for them.

The public hearing opened at 8:40 p.m.

Robert Bollinger, 1569 Highland, asked whether this antenna would interfere with his television and other electronic reception. He said he has complained about interference in the past and no one will accept responsibility. He then asked how the neighbors can know these things are safe. If PG&E **is going** to profit from this, perhaps they can be encouraged to maintain and clean up the area around the tower. He added that there is a lot of activity in the area that should be watched, particularly with no fencing around the tower. It has become an attractive place for teenagers **to** congregate,

Chairperson Caveglia asked staff **to** suggest that the police include this site in their rounds of the City.

Ikram Jahangiri, 1624 Highland Boulevard, said he and his brother **have** the property immediately next to the tower. He said the neighborhood is full of houses, it is not just open space. He commented that any enclosure around the tower would fill up with debris. He also expressed concern regarding the health issue specifically for pacemakers. He then showed a video of the neighborhood and the view from their home. He said he was strongly opposed to the addition of the antenna.

Bonnie Medina-Jawad, Whalen & Co. 4281 Technology Drive, Fremont, applicant, introduced Dean Erickson of Hammett & Edison in Sonoma who was available for questions. Mr. Erickson described the wattage of the antennas and the radio wave exposure as a very miniscule percentage **of** the federal guidelines.

Ms. Medina-Jawad said she **was** unaware of any reports regarding health issues. She noted that Metricom would erect an equipment cabinet at the site, which will be monitored.

The public hearing closed at 8:58 p.m.

Chairperson Caveglia reminded members that it was not in the power of the Commission to make any decisions regarding the health of neighbors who choose to live next to transmission towers. He encouraged Mr. Jahangiri and his family to do some research into the studies that may be available.

Commissioner Fish said the 12,000 volts already **up** there might be the initial concern. It is an accumulative thing. He said the use of this high tower for a telecommunications antenna is ingenious. He **moved**, seconded by Commissioner Sacks, for approval of the permit.

Commissioner Halliday sympathized with Jahangiri family but said there is little the Commission can do at this point since we all use electronic equipment. She said she has also wondered about the accumulative impact of all these things.

The **motion passed unanimously.**

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Anderly announced that there would be one hearing in November.

4. Commissioners' Announcements, Referrals

Chairperson Caveglia made a presentation to Commissioner Fish for his many years of service to the City as both a Planning Commissioner and a member of the Board of Zoning Adjustments.

Commissioner Fish thanked everyone for their support during his terms. He said the Commission serves a very important role in the City in determining the shape of the City. He said how they interpret the ordinances are very important to the look of the neighborhoods. He thanked members of the Council for the opportunity to serve.

MINUTES



REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD, Council Chambers

Thursday, October 19, 2000, 7:30 P.M.
777 "B" Street, Hayward, CA 94541

MINUTES

- September 14, 2000 - Approved
- September 28, 2000 - Approved

ADJOURNMENT TO ROOM 2A

The meeting was adjourned by Chairperson Caveglia at 9:06 p.m.

WORKSESSION

1. Update on General Plan Revision Process
2. Update on Cannery Area Design Concept

APPROVED:

Ed Bogue, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary

DRAFT
